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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,598	10/17/2003	Yu Zheng	PAT-1357-CON	2273

7590 09/03/2004
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EXAMINER

YIP, WINNIE S

ART UNIT PAPER NUMBER

3637

DATE MAILED: 09/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/688,598

Applicant(s)

ZHENG, YU

Examiner

Winnie Yip

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10.17.2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This is a first office action for application Serial No. 10/688,598 filed October 17, 2003 which is a continuation of co-pending earlier applications.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 12-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Brady (US Patent No. 5,137,044).

Brady shows and teaches a collapsible structure comprising a first panel (R) and a second panel (S), each panel having a foldable frame member (42a, 42b respectively) having a folded and unfolded orientation, a fabric material (22) covering the frame member to form a flat panel when the frame member is in the unfolded orientation, each panel being collapsed to a small sized by twisting and folding the frame member (see Figs. 8-16), wherein each panel inherently having a side, the two panels (R, S) are connected and maintained each other at an angle by suitable hinge means (4b) such that the first panel (R) is capable extended vertically form a horizontal surfaces such as the ground surface, the second panel (S) extends at an angle from the

horizontal surface, and the second panel (S) is considered to be hingedly coupled to the fabric material (23) of the first panel.

3. Claims 12-13 and 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Tsai (US Patent No. 5,439,18).

Tsai shows and teaches a collapsible structure comprising two panels each having a foldable frame member (20) having a folded and unfolded orientation, a fabric material (11) covering the frame member to form a flat panel when the frame member is in the unfolded orientation, each panel being collapsed to a small sized by twisting and folding the frame member (see Fig.5), wherein each panel two sides, the two panels are connected and maintained each other at an angel by suitable hinge means at the apex of the sides of the two panels such that a first one of the panel is capable extended vertically form a horizontal surfaces such as the ground surface, and the other second panel extends at an angle from the horizontal surface in the unfolded and erected position, wherein the panels being covered by the fabric material such that the second panel inherently connected to the fabric material of the first panel, and further either one of the panels (the first or second) may have an amusement feature such as a zipped door (112) provided on the fabric of that panel (notice, either one of the panel would be renamed as first or second panel).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tsai '018 as applied to claim 12 above, and further in view of Norman (US Patent No. 5,038,812).

The claim is considered to meet by Tsai as explained and applied above rejection except that Tsai does not define the collapsible structure further having a third panel being hingedly coupled to one side of the first panel. Norman teaches a collapsible structure (100) having at least three panels (108) each having sides being attached together and adjacent to each other for supporting the collapsible structure in a self-erecting position. It would have been an obvious matter of design choice to a person of ordinary skill in the art at the time the invention was made, to modify the collapsible structure of Tsai to have three or more panels being coupled together as taught by Norman for providing stronger support to a collapsible structure since Applicant has not disclosed that the structure having an additional panel provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected applicant's invention to perform equally well three panel being couple in arrangement as claimed to provide a collapsible structure with various structural support and configurations to accommodate various application.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

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provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 12-16 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 6,698,441 in view of Lundy (US Patent No. 3,408,071).

Although the US Patent has numerical number of panels being different than the application, the US patent claims a common subject matter as said application including: three panels (with different numerical numbers) each having a foldable frame member covered by a fabric material, a first panel being vertically extending from a horizontal surface, a second panel being hingedly coupled to the fabric of the first panel, and the third panel being hingedly coupled to one side of the first panel as claimed. Although the US Patent does not claim the second panel being coupled to the first panel at an angle as relative to a horizontal surface, Lundy teaches a collapsible structure having at least three panels being hingedly coupled together, wherein a second panel (4) being mounted to a first panel (1) which is extended vertically as relative to a horizontal surface (the ground surface) and extending at an angle as relative to the horizontal surface by maintaining means (36) as claimed. It would have been obvious to one of ordinary skill in the art to modify the claimed collapsible structure of the panel having the second panel being hingedly coupled to the first panel at an angle by suitable maintaining means as taught by Lundy for providing an operative area as accommodate various applications.

Inquiry Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Winnie Yip whose telephone number is 703-308-2491. The examiner can normally be reached on M-F (9:30-6:30), Second Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Winnie Yip
Primary Examiner
Art Unit 3637

wsy
August 27, 2004